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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-570-979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the “Department”) and the International Trade Commission (“ITC”), the Department is issuing an antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules (“solar cells”), from the People's Republic of China (“PRC”). In addition, the Department is amending its final determination to correct certain ministerial errors.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen, Krisha Hill, or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769, (202) 482-4037, or (202) 482-4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (“Act”), on October 17, 2012, the Department published the final determination of sales at less than fair value, and affirmative final determination of critical circumstances, in part, in the

antidumping duty investigation of solar cells from the PRC.¹ On November 30, 2012, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry.² In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of solar cells from the PRC that are subject to the Department's affirmative critical circumstances finding.³

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This order covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of this order.

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012) ("*Final Determination*").

² See *Crystalline Silicon Photovoltaic Cells and Modules from China (Investigation Nos. 701-TA-481 and 731-TA-1190 (Final))*, USITC Publication 4360, November 2012).

³ See *id.*

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this order; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by this order.

Merchandise covered by this order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000.⁴ These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Amendment to the *Final Determination*

On October 17, 2012, the Department published its affirmative final determination in this proceeding.⁵ On October 19, 2012, Wuxi Suntech Power Co., Ltd. (“Wuxi Suntech”) respondent in the investigation, submitted timely ministerial error allegations and requested that the Department correct the alleged ministerial errors in the dumping margin calculations. On

⁴ U.S. Customs and Border Protection (“CBP”) provided notification that HTSUS number 8501.31.8000 should be added to the scope of the investigation, as certain articles under this number may fall within the scope. *See* Memorandum from Gene H. Calvert through Mark Hoadley to the File, “ACE Case Reference File Update,” dated May 16, 2012.

⁵ *See Final Determination.*

October 24, 2012, Solar World Industries America, Inc., (“Petitioner”) submitted timely rebuttal comments. No other interested party submitted ministerial error allegations or replied to Wuxi Suntech’s submission.

After analyzing all interested party comments and rebuttals, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we made the following ministerial errors in our calculations for the *Final Determination* with respect to Wuxi Suntech:

- In calculating net U.S. price, we incorrectly overstated the amount of certain advertising expenses that we deducted from gross price.
- In calculating the weighted average unit value of reported silicon wafers, we incorrectly overstated the quantity of silicon wafers purchased from non-market economy suppliers.

In addition to correcting the ministerial errors described above, we corrected an error regarding the valuation of Wuxi Suntech’s installation manuals.⁶

In the *Final Determination*, we determined that a number of companies, in addition to the mandatory respondents, qualified for a separate rate.⁷ Since the cash deposit rate for the separate rate respondents is based on the average of the margins for the mandatory respondents, and the margin for Wuxi Suntech changed as a result of the aforementioned ministerial errors, we have revised the calculation of the dumping margin for the separate rate respondents in the amended final determination.⁸ The amended weighted average dumping margins are provided, below.

Antidumping Duty Order

As noted above, on November 30, 2012, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found

⁶ For a detailed discussion of all alleged ministerial errors, as well as the Department’s analysis, *see* memorandum regarding, “Ministerial Error Memorandum, Amended Final Determination of Sales at Less Than Fair Value: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China,” dated concurrently with this notice (“Ministerial Error Memorandum”).

⁷ *See Final Determination.*

⁸ *See Ministerial Error Memorandum.*

material injury with respect to solar cells from the PRC. Because the ITC determined that imports of solar cells from the PRC are materially injuring a U.S. industry, unliquidated entries of such merchandise from the PRC, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct CBP to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of solar cells from the PRC. These antidumping duties will be assessed on unliquidated entries from the PRC entered, or withdrawn from warehouse, for consumption on or after May 25, 2012, the date on which the Department published its *Preliminary Determination*,⁹ but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on entries of subject merchandise from the PRC. We will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart below. These cash deposit rates will be adjusted, where appropriate, for export subsidies. These instructions suspending liquidation will remain in effect until further notice.

⁹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances*, 77 FR 31309 (May 25, 2012) ("Preliminary Determination").

Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as discussed above, adjusted, where appropriate, for export subsidies.¹⁰ The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed.

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of exports of solar cells from the PRC, we extended the four-month period to no more than six months.¹¹ In the underlying investigation, the Department published the *Preliminary Determination* on May 25, 2012.¹² Therefore, the six-month period beginning on the date of the publication of the *Preliminary Determination* ended on November 21, 2012. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of solar cells from the PRC entered, or withdrawn from warehouse, for consumption after November 21, 2012, the date provisional measures expired, and through the day preceding the date of publication of the ITC's final injury determination in the *Federal*

¹⁰ See section 736(a)(3) of the Act.

¹¹ See *Preliminary Determination*.

¹² See *Preliminary Determination*.

Register. Suspension of liquidation will resume on and after the date of publication of the ITC's final injury determination in the *Federal Register*.

The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average Percent Margin
Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd.	Changzhou Trina Solar Energy Co., Ltd.	18.32
	Trina Solar (Changzhou) Science & Technology Co., Ltd.	18.32
Wuxi Suntech Power Co., Ltd., Luoyang Suntech Power Co., Ltd., Suntech Power Co., Ltd. and Wuxi Sun-shine Power Co., Ltd.	Wuxi Suntech Power Co., Ltd.	29.14
	Luoyang Suntech Power Co., Ltd.	29.14
	Suntech Power Co., Ltd.	29.14
	Wuxi Sun-shine Power Co., Ltd.	29.14
Baoding Tianwei Yingli New Energy Resources Co., Ltd.	Baoding Tianwei Yingli New Energy Resources Co., Ltd.	24.48
	Yingli Energy (China) Company Limited	24.48
Tianwei New Energy (Chengdu) PV Module Co., Ltd.	Tianwei New Energy (Chengdu) PV Module Co., Ltd.	24.48
Canadian Solar International Limited	Canadian Solar Manufacturing (Changshu) Inc.	24.48
	Canadian Solar Manufacturing (Luoyang) Inc.	24.48
Canadian Solar Manufacturing (Changshu) Inc.	Canadian Solar Manufacturing (Changshu), Inc.	24.48
Canadian Solar Manufacturing (Luoyang) Inc.	Canadian Solar Manufacturing (Luoyang), Inc.	24.48
Hanwha Solarone (Qidong) Co., Ltd.	Hanwha Solarone (Qidong) Co., Ltd.	24.48
CEEG (Shanghai) Solar Science Technology Co., Ltd.	CEEG (Shanghai) Solar Science Technology Co., Ltd.	24.48
	CEEG Nanjing Renewable Energy Co., Ltd.	24.48

CEEG Nanjing Renewable Energy Co., Ltd.	CEEG Nanjing Renewable Energy Co., Ltd.	24.48
Jiawei Solarchina Co., Ltd.	Jiawei Solarchina (Shenzhen) Co., Ltd.	24.48
Yingli Energy (China) Company Limited	Yingli Energy (China) Company Limited	24.48
	Baoding Tianwei Yingli New Energy Resources Co., Ltd.	24.48
LDK Solar Hi-tech (Nanchang) Co., Ltd.	LDK Solar Hi-tech (Nanchang) Co., Ltd.	24.48
LDK Solar Hi-tech (Suzhou) Co., Ltd.	LDK Solar Hi-tech (Suzhou) Co., Ltd.	24.48
Jiawei Solarchina (Shenzhen) Co., Ltd.	Jiawei Solarchina (Shenzhen) Co., Ltd.	24.48
Changzhou NESL Solartech Co., Ltd	Changzhou NESL Solartech Co., Ltd	24.48
China Sunergy (Nanjing) Co., Ltd.	China Sunergy (Nanjing) Co., Ltd.	24.48
Chint Solar (Zhejiang) Co., Ltd.	Chint Solar (Zhejiang) Co., Ltd.	24.48
Suzhou Shenglong PV-Tech Co., Ltd.	Suzhou Shenglong PV-TECH Co., Ltd.	24.48
tenKsolar (Shanghai) Co., Ltd.	tenKsolar (Shanghai) Co., Ltd.	24.48
Upsolar Group, Co., Ltd.	HC Solar Power Co., Ltd.	24.48
	Zhiheng Solar Inc.	24.48
	Zhejiang Leye Photovoltaic Science & Technology Co., Ltd.	24.48
	Tianwei New Energy (Chengdu) PV Module Co., Ltd.	24.48
	Zhejiang ZG-Cells Co., Ltd.	24.48
	Zhejiang Xinshun Guangfu Science and Technology Co., Ltd.	24.48
	Zhejiang Jiutai New Energy Co., Ltd.	24.48
Wanxiang Import & Export Co., Ltd.	Zhejiang Wanxiang Solar Co., Ltd	24.48
Jinko Solar Import and Export Co., Ltd.	Jinko Solar Co., Ltd.	24.48
JinkoSolar International Limited	Jinko Solar Co., Ltd.	24.48
CNPV Dongying Solar Power Co., Ltd	CNPV Dongying Solar Power Co., LTD	24.48
CSG PVTech Co., Ltd.	CSG PVTech Co., Ltd.	24.48
Delsolar Co., Ltd.	DelSolar (Wujiang) Ltd.	24.48
Dongfang Electric (Yixing) MAGI Solar Power Technology Co., Ltd.	Dongfang Electric (Yixing) MAGI Solar Power Technology Co., Ltd.	24.48

Eoplly New Energy Technology Co., Ltd.	Eoplly New Energy Technology Co., Ltd.	24.48
ERA Solar Co., Ltd.	ERA Solar Co., Ltd.	24.48
ET Solar Energy Limited	ET Solar Industry Limited	24.48
Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	24.48
Himin Clean Energy Holdings Co., Ltd.	Himin Clean Energy Holdings Co., Ltd.	24.48
JA Solar Technology Yangzhou Co., Ltd.	JingAo Solar Co., Ltd.	24.48
Jetion Solar (China) Co., Ltd.	Jetion Solar (China) Co., Ltd.	24.48
Jiangsu Green Power PV Co., Ltd.	Jiangsu Green Power PV Co., Ltd.	24.48
Jiangsu Sunlink PV Technology Co., Ltd.	Jiangsu Sunlink PV Technology Co., Ltd.	24.48
JingAo Solar Co., Ltd.	JingAo Solar Co., Ltd.	24.48
Konca Solar Cell Co., Ltd.	Konca Solar Cell Co., Ltd.	24.48
Leye Photovoltaic Co., Ltd.	Leye Photovoltaic Co., Ltd.	24.48
Lightway Green New Energy Co., Ltd.	Lightway Green New Energy Co., Ltd.	24.48
Motech (Suzhou) Renewable Energy Co., Ltd.	Motech (Suzhou) Renewable Energy Co., Ltd.	24.48
Ningbo ETDZ Holdings, Ltd	Hangzhou Zhejiang University Sunny Energy Science and Technology Co., LTD	24.48
Ningbo Komaes Solar Technology Co., Ltd	Ningbo Komaes Solar Technology Co., Ltd	24.48
Ningbo Qixin Solar Electrical Appliance Co., Ltd	Ningbo Qixin Solar Electrical Appliance Co., Ltd	24.48
Ningbo Ulica Solar Science & Technology Co., Ltd.	Ningbo Ulica Solar Science & Technology Co., Ltd.	24.48
Perlight Solar Co., Ltd.	Perlight Solar Co., Ltd.	24.48
Risen Energy Co., Ltd.	Risen Energy Co., Ltd.	24.48
Shanghai BYD Company Limited	Shanghai BYD Company Limited	24.48
Shanghai JA Solar Technology Co., Ltd.	Shanghai JA Solar Technology Co., Ltd.	24.48
Shanghai Solar Energy Science & Technology Co., Ltd.	Shanghai Solar Energy Science & Technology Co., Ltd.	24.48
Shenzhen Topray Solar Co., Ltd.	Shenzhen Topray Solar Co., Ltd.	24.48
Solarbest Energy-Tech (Zhejiang) Co., Ltd.	Solarbest Energy-Tech (Zhejiang) Co., Ltd.	24.48

Sopray Energy Co., Ltd.	Sopray Energy Co., Ltd.	24.48
Sumec Hardware & Tools Co., Ltd.	Phono Solar Technology Co., Ltd	24.48
Sun Earth Solar Power Co., Ltd.	Sun Earth Solar Power Co., Ltd.	24.48
Yuhuan Sinosola Science & Technology Co., Ltd	Yuhuan Sinosola Science & Technology Co., Ltd	24.48
Yuhuan Solar Energy Source Co., Ltd.	Yuhuan Solar Energy Source Co., Ltd.	24.48
Zhejiang Jiutai New Energy Co., Ltd.	Zhejiang Topoint Photovoltaic Co., Ltd.	24.48
Zhejiang Shuqimeng Photovoltaic Technology Co., Ltd.	Zhejiang Shuqimeng Photovoltaic Technology Co., Ltd.	24.48
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	24.48
PRC-Wide Rate		249.96

With regard to the ITC's negative critical circumstances determination on imports of the solar cells from the PRC, we will instruct CBP to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of estimated antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after February 25, 2012 (*i.e.*, 90 days prior to the date of publication of the *Preliminary Determination*), but before May 25, 2012.

This notice constitutes the antidumping duty order with respect to solar cells from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7043 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order and amended final determination are published in accordance with sections 736(a) and 735(e) of the Act and 19 CFR 351.211 and 351.224(e).

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

_December 3, 2012_____

Date

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